

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KIM THUL OUK,)
)
)
Plaintiff,)
)
vs.) Case No. CIV-09-1062-M
)
UNITED STATES DEPARTMENT OF)
JUSTICE EXECUTIVE FOR)
IMMIGRATION AND)
NATURALIZATION,)
)
Defendant.)

ORDER

On October 5, 2009, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff's federal rights. The Magistrate Judge recommended that (1) plaintiff's action be dismissed pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which § 1983 relief may be granted; (2) any request for mandamus relief pursuant to 28 U.S.C. § 1361 be dismissed for failure to state a claim upon which relief may be granted; and (3) this dismissal be counted as a "prior occasion" or strike pursuant to 28 U.S.C. § 1915(g) after plaintiff has exhausted or waived his right to appeal. Plaintiff was advised of his right to object to the Report and Recommendation by October 26, 2009. As receiving a couple of extensions of time, plaintiff has not filed any objections to the Report and Recommendation.

Accordingly, upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on October 5, 2009, and
- (2) DISMISSES this action pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which § 1983 relief may be granted and DISMISSES any request for

mandamus relief pursuant to 28 U.S.C. § 1361 for failure to state a claim upon which relief may be granted.¹

IT IS SO ORDERED this 11th day of January, 2010.



VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE

¹Plaintiff is advised that dismissal of this action pursuant to 28 U.S.C. § 1915A(b) will constitute one “strike” pursuant to 28 U.S.C. § 1915(g) upon affirmance or waiver of his opportunity to appeal.